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1971

REORGANIZATION PLAN

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

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October 19, 1971

Honorable Forrest H. Anderson  
Governor of Montana  
State Capitol  
Helena, Montana 59601

Dear Governor Anderson:

In accordance with your request we are herewith submitting a proposed reorganization plan for the Department of Social and Rehabilitation Services. The Task Force believes that, through reorganization, services to needy, disabled, blind, aged, and dependent persons and veterans can be provided more efficiently and effectively.

Respectfully submitted,

TASK FORCE ON SOCIAL AND  
REHABILITATION SERVICES

Theodore Carlulis  
Theodore Carlulis, Chairman

Jack C. Carver

Lyle Downing

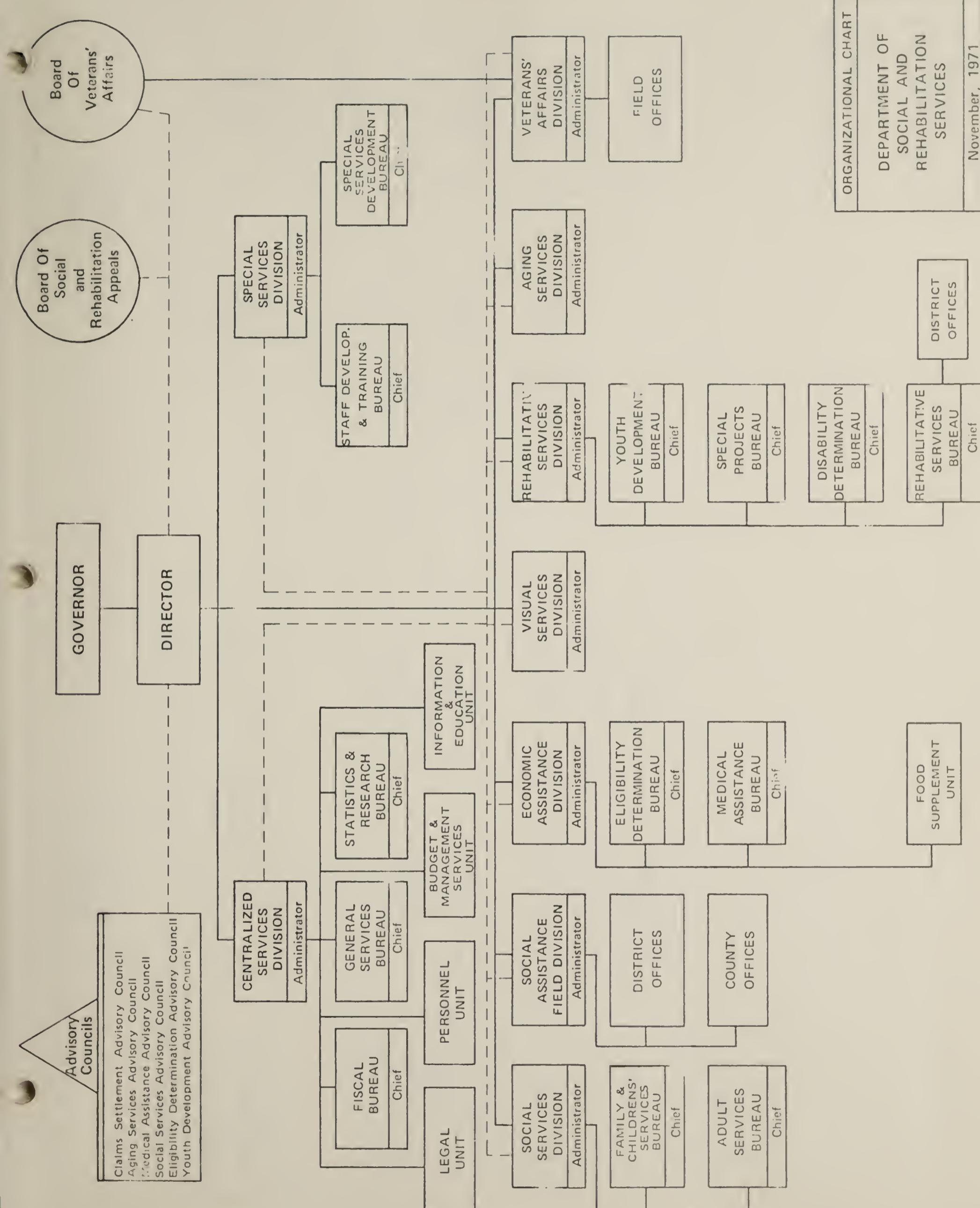
David Armstrong



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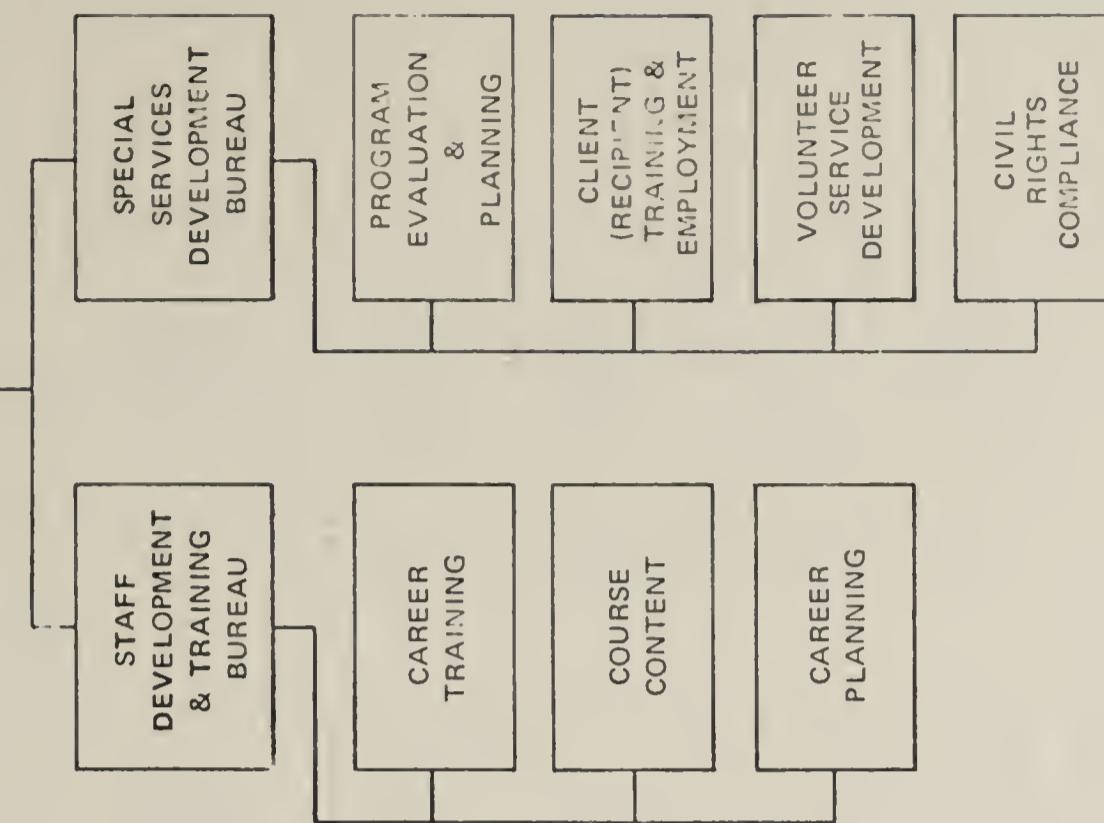
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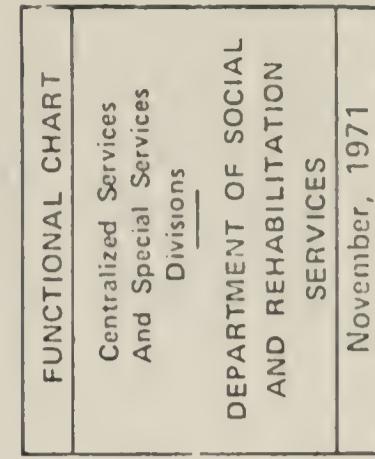
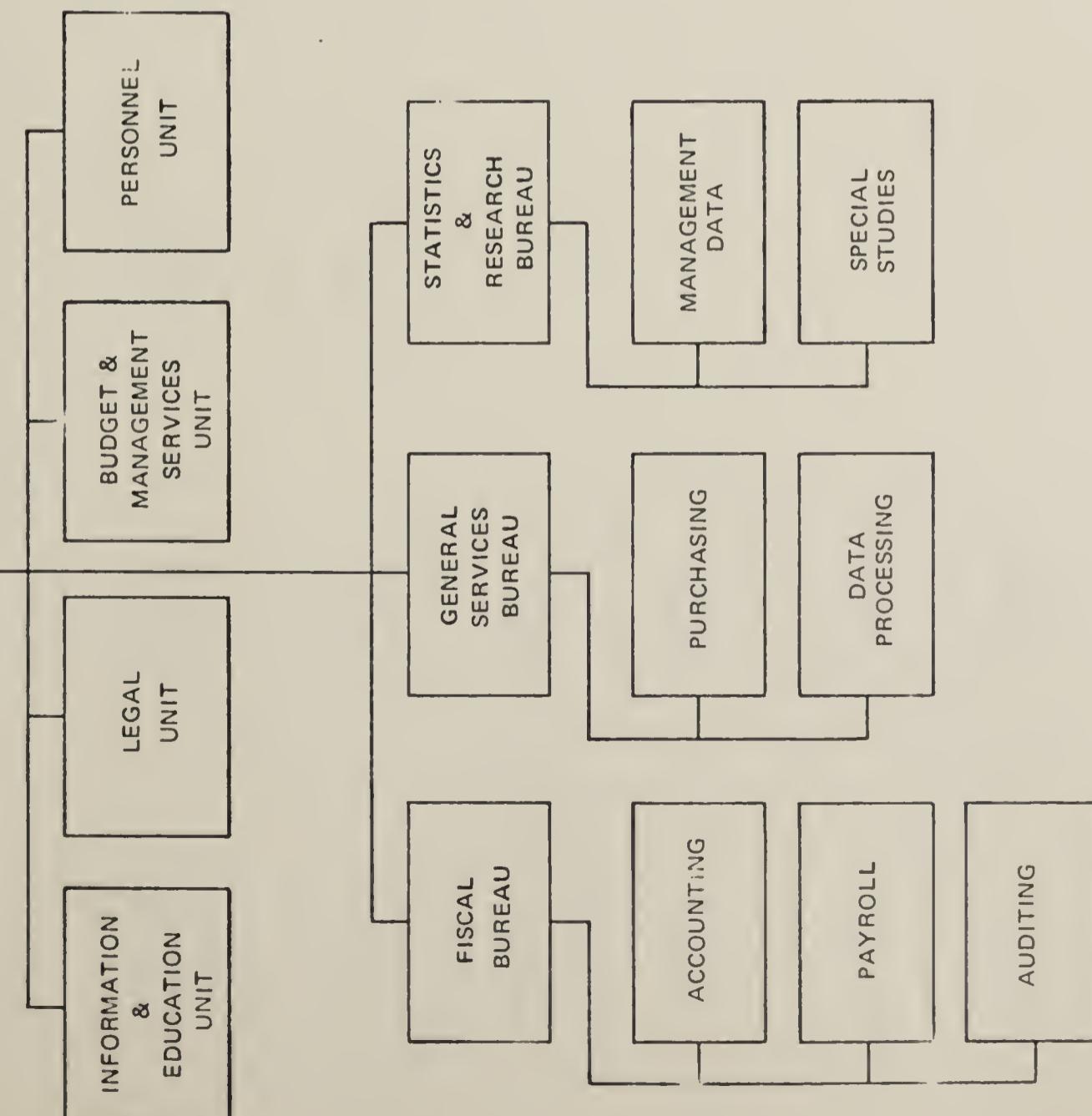




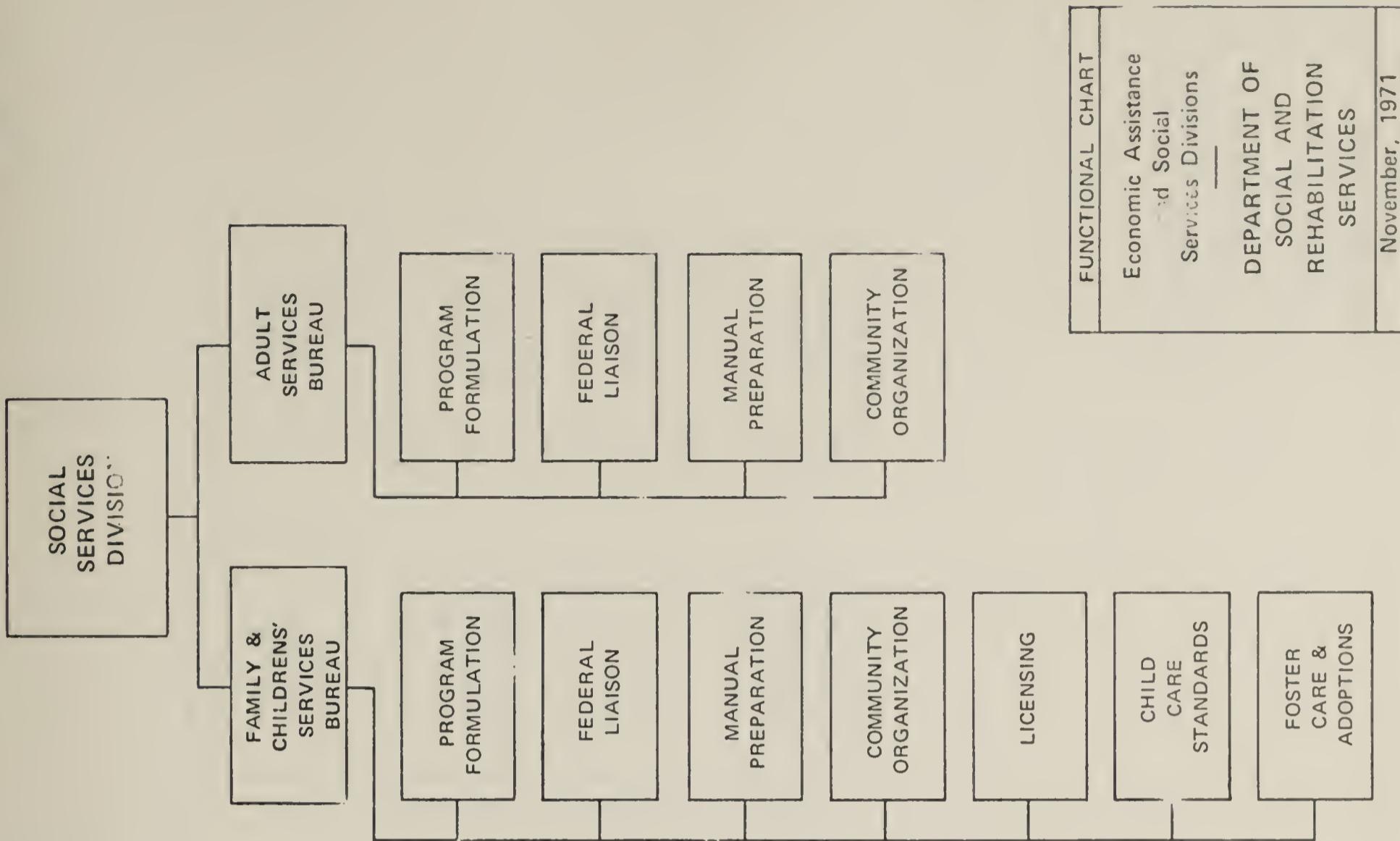
**SPECIAL SERVICES DIVISION**



**CENTRALIZED SERVICES DIVISION**

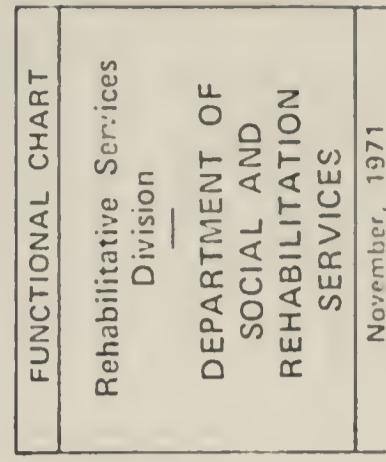
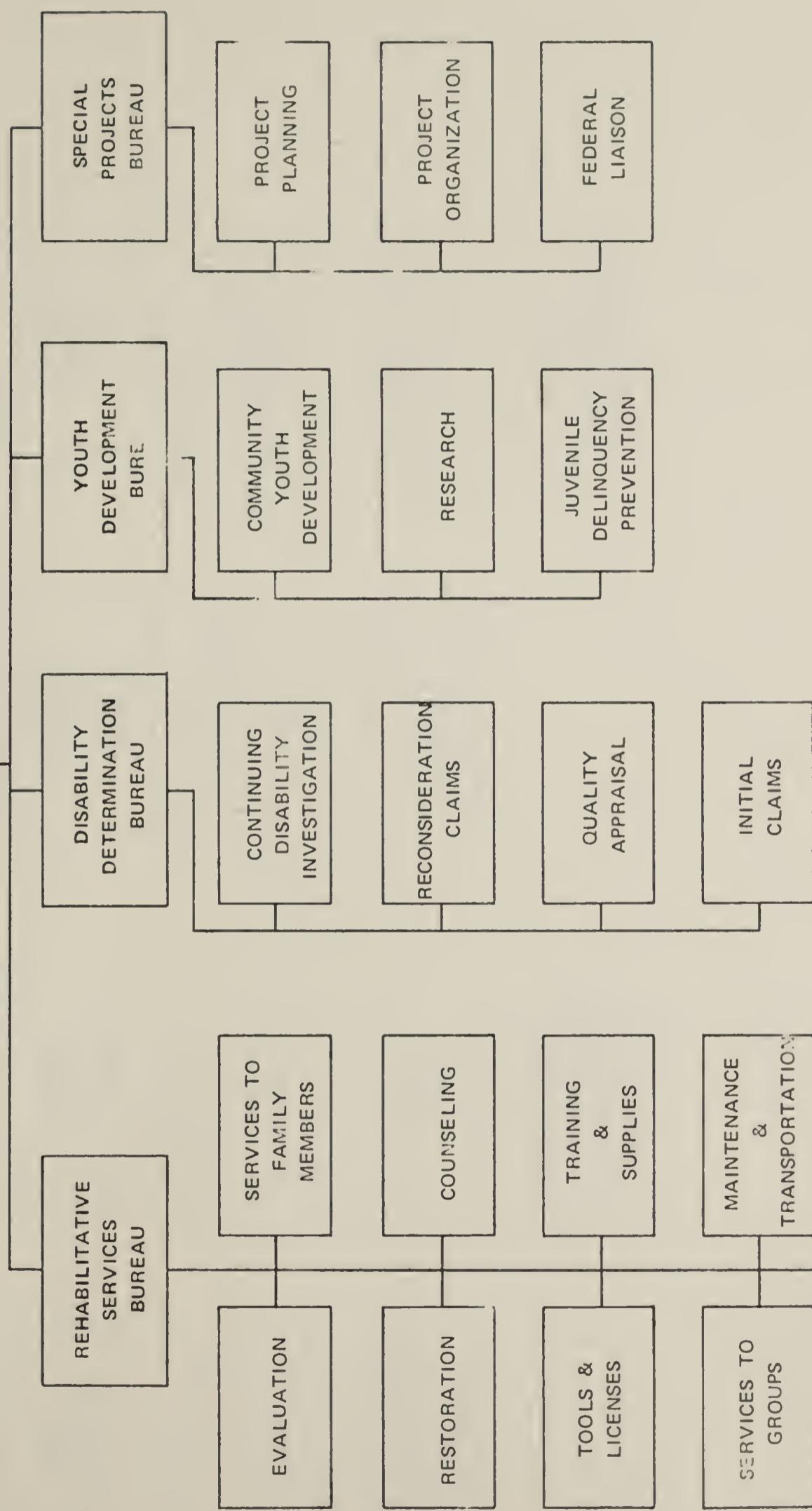






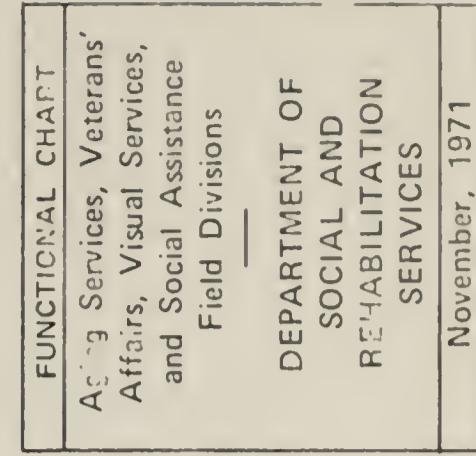
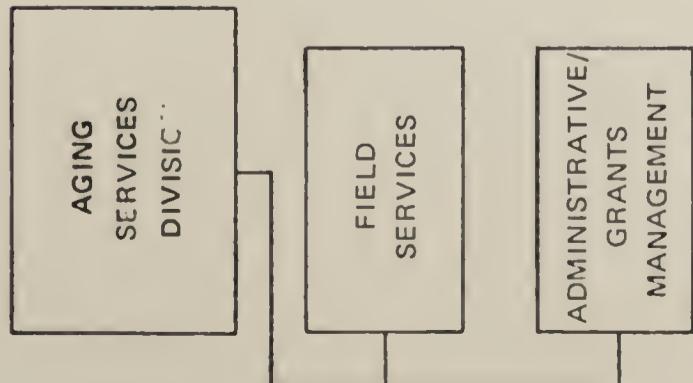
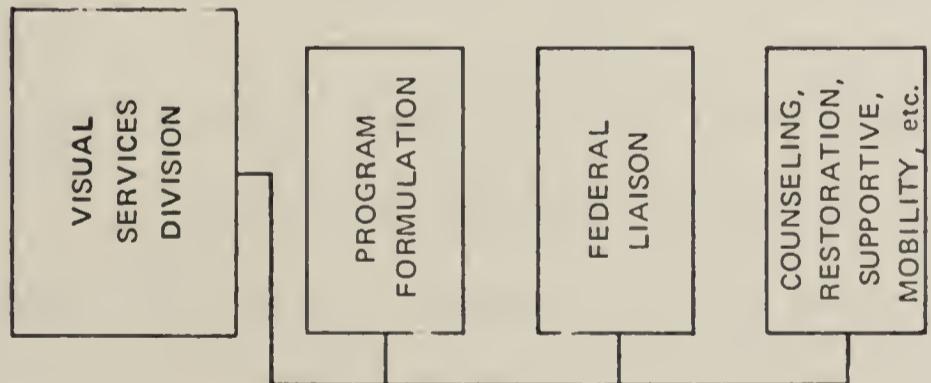
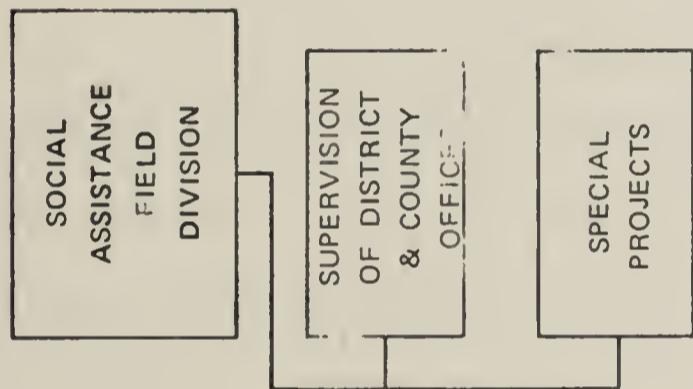
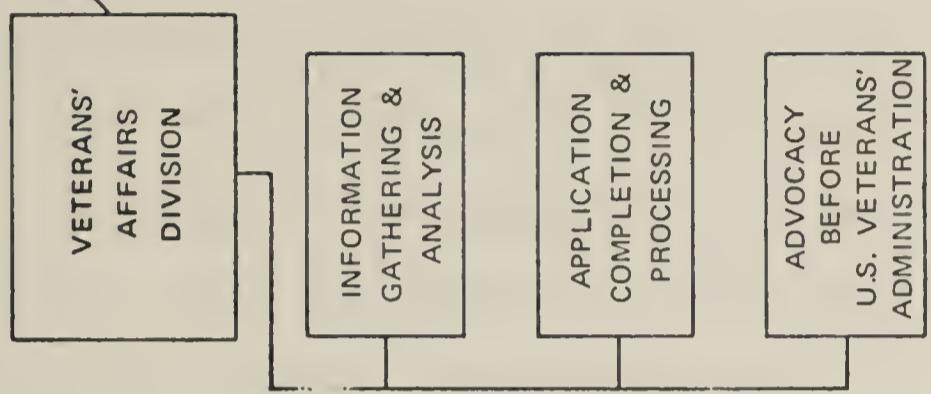


REHABILITATIVE  
SERVICES  
DIVISION





Board  
of  
Veterans'  
Affairs



November, 1971



MAJOR PROGRAMS

Centralized Services

Description: The Centralized Services program will perform those functions required to support the other programs of the Department. The activities of the program will include accounting, payroll, auditing, purchasing, information and education, data processing, statistics and research, legal services, budget and management services, and personnel services.

Authority: Title 82A, Chapter 1, R.C.M. 1947

Division Responsible: Centralized Services Division.

Special Services

Description: The Special Services program will perform two functions within the Department. One of the functions will be staff development and training. The second function--special services development--will include the following activities: program evaluation and planning, client (recipient) training and employment, volunteer service development, and civil rights compliance.

Authority: Federal Social Security Act and Regulations of the U. S. Department of Health, Education, and Welfare.

Division Responsible: Special Services Division.



## Social Services

Description: The functions of this program will be providing, either directly or through purchase, public social services to help families and individuals in one or more areas of functioning; protective services for children and adults who are neglected, abused or exploited; and community planning in cooperation with other community agencies, organizations, and interested citizens in the development and/or extension of the broad range of resources and facilities to meet the social and economic needs of the state and the individual communities. In pursuit of these broad goals, the Department will seek, through individual, group and supportive services and community organization activities, to improve the condition of individuals and families in the following areas: economic independence; education; family stability and personal adjustment; housing and money management; health, personal independence and self-care; child and youth development; child care and protection; and protection of adults.

Authority: The authority for the Social Services program is found in:

Title 71, Chapter 7, R.C.M. 1947; Title 10, Chapter 5, R.C.M. 1947 and the Federal Social Security Act, Title 4 --Child Welfare Services;

Title 61, Chapter 2, R.C.M. 1947--Adoption Services;

Titles 1, 4, 10, 14 of the Federal Social Security Act;

Title 71, Chapter 7, R.C.M. 1947; Title 10, Chapter 5, R.C.M. 1947;

Title 10, Chapter 7, R.C.M. 1947; and Title 10, Chapter 8, R.C.M. 1947--Regulatory Services.

Division Responsible: Social Services Division.



Economic Assistance

Description: Administration of direct payments to persons who are found eligible for Old Age Assistance, Aid to Dependent Children, Aid to the Needy Blind, Aid to the Permanently and Totally Disabled, Medical Assistance, Food Stamps, and Commodity Distribution will be accomplished through the Economic Assistance program.

Authority: The authority for the Economic Assistance program is found in:

Title 71, Chapter 4, R.C.M. 1947 and Title 1 of the Federal Social Security Act--Old Age Assistance;

Title 71, Chapter 5, R.C.M. 1947 and Title 4 of the Federal Social Security Act--Aid to Dependent Children;

Title 71, Chapter 6, R.C.M. 1947 and Title 10 of the Federal Social Security Act--Aid to the Needy Blind;

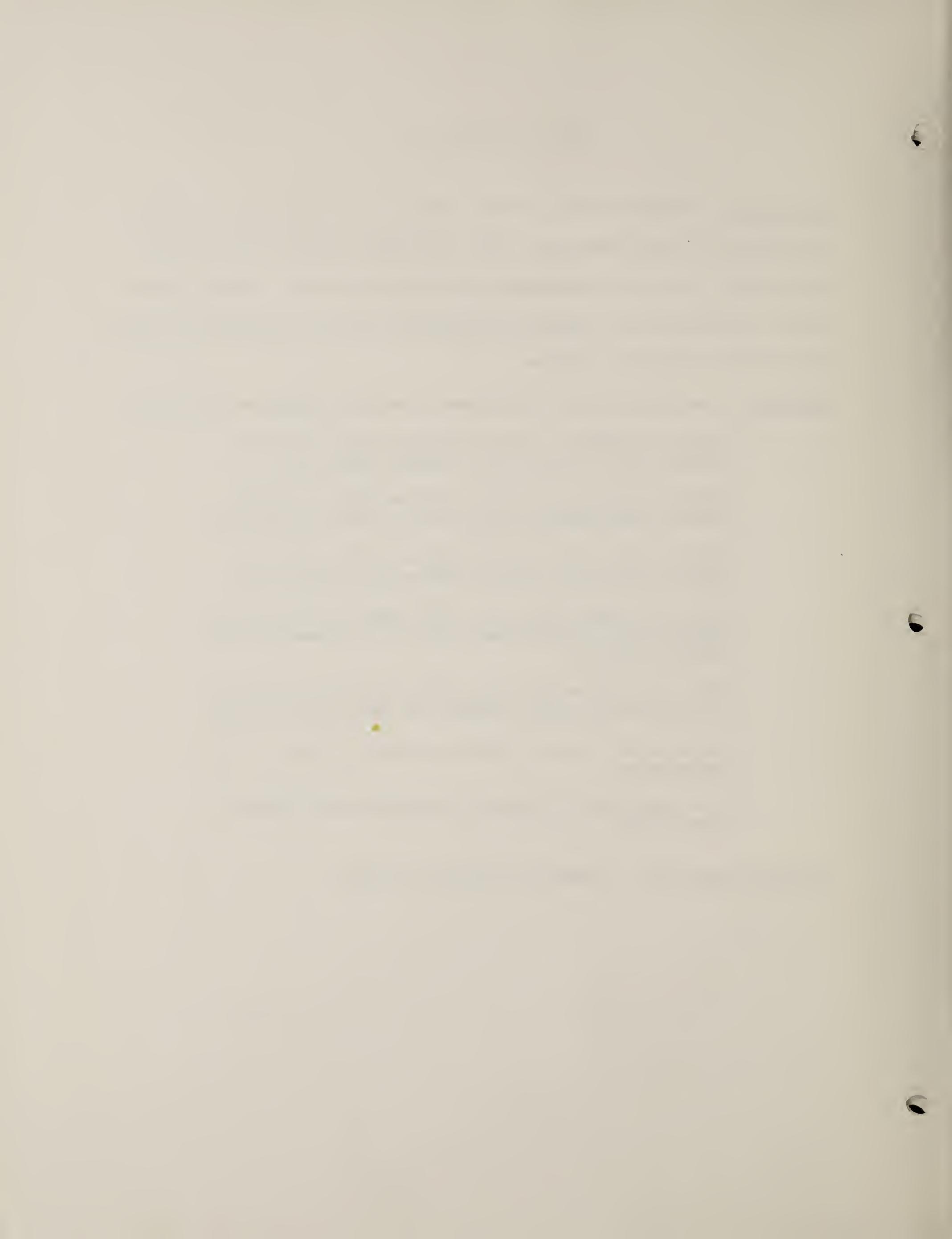
Title 71, Chapter 12, R.C.M. 1947 and Title 14 of the Federal Social Security Act--Aid to the Permanently and Totally Disabled;

Title 71, Chapter 15, R.C.M. 1947 and Titles 16 and 19 of the Federal Social Security Act--Medical Assistance;

The Food Stamp Act of 1964 (P.L. 88-525, 78 Stat. 703)--Food Stamps;

U. S. Department of Agriculture Regulations--Commodity Distribution.

Division Responsible: Economic Assistance Division.



### Eligibility Determination

Description: Determination for eligibility for Old Age Assistance, Aid to the Permanently and Totally Disabled, Aid to Dependent Children, Aid to the Needy Blind, Medical Assistance, and General Assistance will be accomplished through the Eligibility Determination program.

Authority: The authority for the Eligibility Determination program is found in:

Title 71, Chapter 3, R.C.M. 1947;

Title 71, Chapter 4, R.C.M. 1947 and Title 1 of the Federal Social Security Act--Old Age Assistance;

Title 71, Chapter 5, R.C.M. 1947 and Title 4 of the Federal Social Security Act--Aid to Dependent Children;

Title 71, Chapter 6, R.C.M. 1947 and Title 10 of the Federal Social Security Act--Aid to the Needy Blind;

Title 71, Chapter 12, R.C.M. 1947 and Title 14 of the Federal Social Security Act--Aid to the Permanently and Totally Disabled;

Title 71, Chapter 15, R.C.M. 1947 and Titles 16 and 19 of the Federal Social Security Act--Medical Assistance.

Division Responsible: Economic Assistance Division.



### Visual Services

Description: Providing rehabilitation services (physical restoration, transportation, occupational and business licenses, tools and equipment, training materials, training, maintenance, testing, guidance and counseling, and placement and follow-up) to the state's visually handicapped will be accomplished through the Visual Services program.

Authority: The authority for the Visual Services program is found in:

Title 71, Chapter 14, R.C.M. 1947 and Title 10 of the Federal Social Security Act.

Division Responsible: Visual Services Division.

### Rehabilitative Services

Description: Rehabilitation services (physical restoration, transportation, occupational and business licenses, tools and equipment, training materials, training, maintenance, testing, guidance and counseling, and placement and follow-up) for handicapped Montanans, except for the visually handicapped, will be accomplished through this program.

Authority: The authority for the Rehabilitative Services program is found in:

Title 41, Chapter 8, R.C.M. 1947 and P.L. 65-113, as amended by P.L. 90-341.

Division Responsible: Rehabilitative Services Division.



### Youth Development

Description: Planning projects and programs to prevent juvenile delinquency will be accomplished through the Youth Development program.

Authority: The authority for the Youth Development program is found in the Juvenile Delinquency Prevention and Control Act of 1968 (P.L. 90-445, 82 Stats. 462).

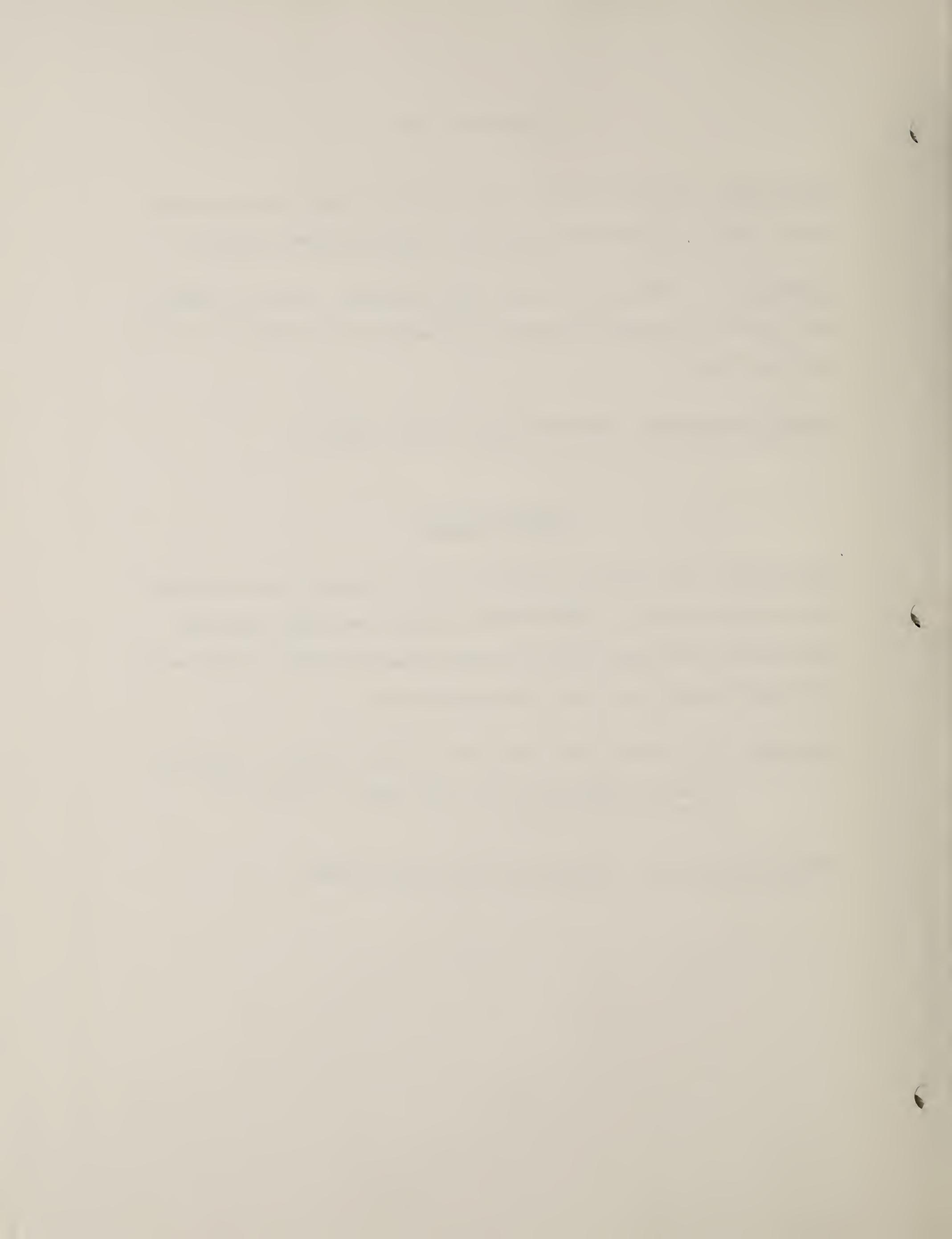
Division Responsible: Rehabilitative Services Division.

### Special Projects

Description: The planning, organizing, and directing of the development of sheltered workshops, rehabilitation centers, work-study programs, institutional programs, and other special disability projects will be accomplished through the Special Projects program.

Authority: The authority for the Special Projects program is found in: Title 41, Chapter 8, R.C.M. 1947 and P.L. 65-113, as amended by P.L. 90-341.

Division Responsible: Rehabilitative Services Division.



### Disability Determination

Description: Determinations of medical-legal disability for applicants for social security disability benefits, who satisfy federal coverage requirements and who reside within Montana jurisdictions, will be accomplished under the Disability Determination program.

Authority: The authority for the Disability Determination program is found in a contract between the Division of Vocational Rehabilitation and the Federal Social Security Administration.

Division Responsible: Rehabilitative Services Division.

### Services to the Aged

Description: The administration of federal grants (made under Title III of the Older Americans Act of 1965) for social, employment, and recreational projects for Montana's senior citizens will be accomplished under the Services to the Aged program. To date, the major portion of these federal grants has gone into the establishment of senior citizen centers in various cities throughout the state.

Authority: The authority for the Services to the Aged program is found in Title 82, Chapter 35, R.C.M. 1947 and Title III of the Older Americans Act of 1965 (Title 42, Chapter 35, U.S.C.).

Division Responsible: Aging Services Division.



Veterans' Affairs

Description: A number of services to veterans will be provided under the Veterans' Affairs program. These services will include:

1. Aiding veterans to receive benefits from the federal Veterans' Administration;
2. Giving assistance to morticians for veterans' families in obtaining burial benefits, flag, and headstones or markers at the time of the veteran's death and burial;
3. Aiding veterans in obtaining reviews of discharges, and replacement of lost or destroyed discharge certificates;
4. Providing counseling services to veterans and their dependants;
5. Assisting in transferring veterans from the State Hospital in Warm Springs to the Veterans' Administration Hospital at Sheridan, Wyoming; and
6. Providing meal tickets, lodging, and transportation to needy veterans in times of emergency or extreme need.

Authority: The authority for the Veterans' Affairs program is found in Title 77, Chapter 10, R.C.M. 1947.

Division Responsible: Veterans' Affairs Division.



## SPACE REQUIREMENTS

The Divisions of the Department of Social and Rehabilitation Services will be housed at the following locations:

- Centralized Services\*, Special Services, Social Services, and Social Assistance Field: Welfare Building, 515 North Ewing.
- Economic Assistance: 801 North Main.
- Visual Services Division: 5 15th Avenue.
- Rehabilitative Services Division: Power Block.
- Aging Services Division: 715 Fee Street.
- Veterans' Affairs Division: Horsky Block.

Essential to a fully effective and efficient operation is a single office for the entire Department. The Department will work toward this goal once reorganization is affected.

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\*Location of the Centralized Services Division in the Welfare Building will necessitate the movement of an appropriate number of welfare program personnel to the office of the Rehabilitative Services Division.



### POTENTIAL SAVINGS

While no specific dollar amount can be realistically estimated, the Task Force believes the activation of the Department of Social and Rehabilitation Services will result in savings in several areas. The most obvious will be in the area of central administrative services. Through attrition, it is expected that expenditures can be reduced by consolidating such functions as accounting, data processing and payroll work. Relatively immediate savings should be made through a consolidated approach to the purchase of supplies and materials. Realization of most of the above potential hinges, to a great extent, upon a single location for the entire Department.

Purchase of medical services and other services by all units of the Department can be made through a unified approach.

It is also expected that savings can be realized through a joint approach in the area of special services, that is, staff training, program planning, etc.

The Task Force believes that the eventual consolidation of district field offices is also a possibility. This could result in significant savings.

Finally, the Task Force is certain that the new Department can better utilize state and local funds to attract federal funds and should also be able to realize economies by purchasing services within the various units of the Department.

More important than any potential dollar savings is the fact that the Department of Social and Rehabilitation Services is expected to result in improved services to the public. The new Department will be a much better vehicle for the delivery of comprehensive social services.



EXECUTIVE REORGANIZATION  
PERSONNEL TRANSFER FORM

DATE

PAGE  
DESIGNATION

1 of 4

For The  
Department  
Of:

Social and Rehabilitation Services

Name Of Principal Department

EXISTING AGENCY

Department of Public Welfare

EMPLOYEE'S NAME	POSITION TITLE	Transferred To Principal Department Named Above	Transferred To Another Principal Department (Please Name)	Retained By Existing Agency
All employees		(✓)		(✓)
		X		



## EXECUTIVE REORGANIZATION

## PERSONNEL TRANSFER FORM

DATE

PAGE  
DESIGNATION

2 of 4

For The Department Of:	Social and Rehabilitation Services			
	Name Of Principal Department			
EXISTING AGENCY	Division of Vocational Rehabilitation			
EMPLOYEE'S NAME	POSITION TITLE	Transferred To Principal Department Named Above	Transferred To Another Principal Department (Please Name)	Retained By Existing Agency
All employees		X		(✓)



## EXECUTIVE REORGANIZATION

## PERSONNEL TRANSFER FORM

DATE

PAGE  
DESIGNATION

3 of 4

For The  
Department  
Of:

Social and Rehabilitation Services

Name Of Principal Department

EXISTING AGENCY

Commission on Aging

EMPLOYEE'S NAME	POSITION TITLE	Transferred To Principal Department Above	Transferred To Another Principal Department (Please Name)	Retained By Existing Agency
All employees		X		
		✓		○



EXECUTIVE REORGANIZATION  
PERSONNEL TRANSFER FORM

DATE

PAGE  
DESIGNATION

4 of 4

For The  
Department  
Of:

Social and Rehabilitation Services

Name Of Principal Department

EXISTING AGENCY

Veterans' Welfare Commission

EMPLOYEE'S NAME	POSITION TITLE	Transferred To Principal Department Named Above	Transferred To Another Principal Department (Please Name)	Retained By Existing Agency
All employees		(✓)		(✓)
				X



## EXECUTIVE REORGANIZATION

## PROPERTY TRANSFER FORM

DATE

PAGE  
DESIGNATION

1 of 4

For The  
Department  
Of:Social and Rehabilitation Services  
Name of Principal Department

EXISTING AGENCY

Department of Public Welfare

Quantity	Description Of Property	Transferred To Principal Department Named Above	Transferred To Another Principal Department (Please Name)	Retained By Existing Agency
	All property	(✓)		(✓)
		X		



## EXECUTIVE REORGANIZATION

## PROPERTY TRANSFER FORM

DATE

PAGE  
DESIGNATION

2 of 4

For The  
Department  
Of:Social and Rehabilitation Services  
Name Of Principal Department

EXISTING AGENCY

Division of Vocational Rehabilitation

Quantity	Description Of Property	Transferred To Principal Department Named Above	Transferred To Another Principal Department (Please Name)	Retained By Existing Agency
	All property	(✓)		
		X		(✓)



## EXECUTIVE REORGANIZATION

## PROPERTY TRANSFER FORM

DATE

PAGE

DESIGNATION

3 of 4

For The  
Department  
Of:

Social and Rehabilitation Services

Name Of Principal Department

EXISTING AGENCY

Commission on Aging

Quantity	Description Of Property	Transferred To Principal Department Named Above	Transferred To Another Principal Department (Please Name)	Retained By Existing Agency
	All property	(✓)		(✓)
		X		



## EXECUTIVE REORGANIZATION

## PROPERTY TRANSFER FORM

DATE

PAGE

DESIGNATION

4 of 4

For The  
Department  
Of:Social and Rehabilitation Services  
Name Of Principal Department

EXISTING AGENCY

Veterans' Welfare Commission

Quantity	Description Of Property	Transferred To Principal Department Named Above	Transferred To Another Principal Department (Please Name)	Retained By Existing Agency
	All property	(✓)		(✓)
				X



EXECUTIVE REORGANIZATION  
ACCOUNT/APPROPRIATION  
TRANSFER FORM

DATE

PAGE  
DESIGNATION

1 of 4

For The Department Of:	Social and Rehabilitation Services			
	Name Of Principal Department			
EXISTING	AGENCY	Department of Public Welfare		
Account Number	Appropriation Number	Estimated Balance At Transfer Date	Transferred To Principal Department Named Above	Transferred To Another Principal Department (Please Name)
All	accounts and appropriations	X	(✓)	(✓)
				Retained By Existing Agency



## EXECUTIVE REORGANIZATION

ACCOUNT/APPROPRIATION  
TRANSFER FORM

DATE

PAGE  
DESIGNATION

2 of 4

For The  
Department  
Of:Social and Rehabilitation Services  
Name Of Principal Department

EXISTING AGENCY

Division of Vocational Rehabilitation

Account Number	Appropriation Number	Estimated Balance At Transfer Date	Transferred To Principal Department Named Above	Transferred To Another Principal Department (Please Name)	Retained By Existing Agency
			X		(✓)
All accounts and appropriations					



EXECUTIVE REORGANIZATION  
ACCOUNT/APPROPRIATION  
TRANSFER FORM

DATE

PAGE  
DESIGNATION

3 of 4

For The Department Of:		Social and Rehabilitation Services Name Of Principal Department		
EXISTING AGENCY		Commission on Aging		
Account Number	Appropriation Number	Estimated Balance At Transfer Date	Transferred To Principal Department Named Above	Transferred To Another Principal Department (Please Name)
			( <input checked="" type="checkbox"/> )	
All accounts and appropriations		X		
				( <input checked="" type="checkbox"/> )

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EXECUTIVE REORGANIZATION  
ACCOUNT/APPROPRIATION  
TRANSFER FORM

DATE

PAGE  
DESIGNATION

4 of 4

For The Department Of:		Social and Rehabilitation Services		Transferred To Principal Department Named Above	Transferred To Another Principal Department (Please Name)	Retained By Existing Agency
		No. Of Principal Department				
EXISTING AGENCY		Veterans' Welfare Commission				
Account Number	Appropriation Number	Estimated Balance At Transfer Date				
			(✓)			(✓)
All accounts and appropriations						X



PROPOSED RULES GOVERNING APPEALS TO THE BOARD OF  
SOCIAL AND REHABILITATION APPEALS

(Note: These rules are proposed as a part of the Reorganization Plan for the Department of Social and Rehabilitation Services. It is planned that these rules will be formally adopted by the Board at its first meeting after activation of the Department.)



IN THE MATTER OF THE RULES GOVERNING )  
APPEALS TO THE BOARD OF SOCIAL AND )  
REHABILITATION APPEALS )

O R D E R

IT IS HEREBY ORDERED that the rules adopted by the Board of Social and Rehabilitation Appeals on \_\_\_\_\_, 1971, attached hereto and made a part hereof, are hereby promulgated and declared to be effective \_\_\_\_\_, 1971.

IN WITNESS WHEREOF, we have hereunto set our hands at Helena, the capitol, this \_\_\_\_\_ day of \_\_\_\_\_, 1971.

BOARD OF SOCIAL AND REHABILITATION APPEALS

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member



RULES GOVERNING APPEALS TO THE BOARD OF  
SOCIAL AND REHABILITATION APPEALS

GENERAL.

- A. The purpose of these rules is to clearly set forth procedures to be followed for appeals within the Department of Social and Rehabilitation Services.
- B. These rules are adopted pursuant to authority transferred to the Board under section 82A-1907 of the Executive Reorganization Act, R.C.M. 1947, specifically, authority under:
  1. Section 41-810, R.C.M. 1947;
  2. Section 71-223, R.C.M. 1947;
  3. Section 71-306, R.C.M. 1947;
  4. Section 71-1411, R.C.M. 1947;
  5. Item 25, page 6, of the State Plan for Programs on Aging under Title III of the Older Americans Act of 1965, dated July 1, 1970, and submitted by the Commission on Aging and approved by the Social and Rehabilitation Service of the U. S. Department of Health, Education, and Welfare.
- C. These rules may be amended by the Board at any time, provided such changes are made consistent with state and federal laws. Any change in these rules shall be effective only by specific written amendments thereto.
- D. These rules supersede all rules, procedures, or policies previously adopted or recognized by the Commission on Aging, the Division of Vocational Rehabilitation, the Department of Public Welfare, and the Board of Public Welfare which conflict directly or indirectly, with

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the rules contained herein. These rules are intended to be a new and exclusive set of procedures governing appeals within the Department.

D. The Director shall provide copies of these rules to any interested party, and he may charge a reasonable fee for their cost.

RULE 1. DEFINITIONS.

As used in these rules:

- A. "Board" means the Board of Social and Rehabilitation Appeals, created in section 82A-1906, R.C.M. 1947;
- B. "Department" means the Department of Social and Rehabilitation Services, created in section 82A-1901, R.C.M. 1947;
- C. "Director" means the Director of Social and Rehabilitation Services, a position provided for in section 82A-1901, R.C.M. 1947;
- D. "Claimant" means an applicant for or recipient of financial or medical assistance through the Department under Title 71, Chapters 2 through 9, Chapter 12, and Chapters 14 and 15, R.C.M. 1947.

RULE 2. RIGHT TO APPEAL.

Any claimant is entitled to a fair hearing before the Board or its representative under any of the following circumstances:

- A. If he is not provided with an opportunity to make application or reapplication for assistance;
- B. If his application is not acted upon promptly;
- C. If his application is rejected;
- D. If the grant is inadequate or inequitable in relation to the Department's standards of assistance;
- E. If the grant has been changed or discontinued;
- F. If the manner or form of payments, including restricted or protective payments, is not agreeable;
- G. If the condition of payments, including work requirements, is not agreeable.

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RULE 3. REPRESENTATION.

A claimant may be represented by legal counsel, or by a relative, friend, or other spokesman, or he may represent himself.

RULE 4. REQUEST FOR FAIR HEARING.

A request for a fair hearing is considered as any clear expression, either written or oral, by the claimant or his representative to the effect that he wants the opportunity to present his case to higher authority.

RULE 5. INFORMING AND ASSISTING CLAIMANT.

Every claimant shall be informed in writing at the time of application (intake interview) and at the time of any action affecting his claim:

- A. Of his right to a fair hearing;
- B. Of the method by which he may obtain a hearing;
- C. Of his right to representation as provided by Rule 3.

The right of a claimant to request a fair hearing shall not be limited or interfered with in any way; emphasis shall be on helping the claimant in submitting and preserving his request. Claimants who need assistance in making their appeals shall have such help as is necessary extended by the staff of the county welfare department. Appeals may be accepted by the county department for transmission to the state Department.

RULE 6. PREHEARING CONFERENCE.

- A. If, within the advance notice period prior to the Department or the county department taking the questioned action, the claimant indicates his wish for a conference, the claimant shall be afforded an opportunity to discuss his situation with the Department's field staff, and obtain an explanation of the reasons for the proposed action and to present information to show that the proposed action is incorrect and why it should not be taken.



- B. The claimant requesting a conference may be represented at the conference as provided by Rule 3.
- C. The opportunity for a conference does not diminish the claimant's right to a fair hearing if the conference does not, to the claimant's satisfaction, resolve the reason for his appeal of the proposed action affecting his case.

RULE 7. GROUP HEARING.

The Board may respond to a series of individual requests for fair hearings by conducting (through the Board's hearing examiners) a single group hearing, but cases may be consolidated only if the sole issue is one of the Department's policy. In such situations, each claimant has the right to withdraw from the group hearing in favor of an individual hearing. If claimants request a group hearing on such issue, the request shall be granted. In all group hearings, whether initiated by the Board or by the claimants, these rules governing fair hearings must be followed. Each claimant may present his own case and be represented by his own representative, or he may have his case presented by a representative for the entire group.

RULE 8. MEDICAL HEARING.

When the hearing involves medical issues such as those concerning a diagnosis, or an examining physician's report, or the medical review team's decision, a medical assessment other than that of the person or persons involved in making the original decision shall be obtained at Department expense from a source satisfactory to the claimant, and made a part of the record if the hearing officer or the claimant considers it necessary.

RULE 9. PLACE OF HEARING.

Whenever possible, the fair hearing shall be held in the county seat of the county in which the claimant lives. If there are unusual circumstances

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which prevent the claimant from appearing at the county seat, then other suitable arrangement may be made.

RULE 10. NOTICE OF HEARING.

The Department shall notify the claimant by registered mail at least ten (10) days in advance of the time and place of the hearing. The notification shall inform the claimant as to the conduct of the hearing, including its informal nature, his opportunity to present his case or be represented, to produce witnesses and introduce testimony and evidence pertinent to his appeal, and to examine all evidence used to make a decision on his appeal. Copies of the notice shall be mailed to the chairman of the county welfare board, the county director, and the field supervisor of the district.

RULE 11. HEARING OFFICER.

The Board shall make the decision on a fair hearing. However, a hearing may be conducted by a hearing officer employed by the Department. The officer who conducts the hearing shall be selected on the following basis:

- A. He should be in a position in which he may be authorized, for purposes of conduct of the hearing, to act in the name of the Department and as a representative of the Board.
- B. He should have developed skills in the process of interviewing and examining which will enable him to obtain all pertinent evidence and to bring out the facts necessary to a fair determination of the case.
- C. He should have had such administrative experience as to enable him to evaluate the evidence in such a way that he may:
  1. Interpret to the local office state policies and regulations which may not be entirely understood; and
  2. Explain to the claimant the laws and regulations under which the Department operates.



D. No person who has taken part in the particular action from which appeal is made shall be selected as a hearing officer to conduct a hearing on such action.

E. The hearing officer shall not review the case record, or other material prior to the hearing, unless such material is made available to the claimant or his representative.

RULE 12. ATTENDANCE--REPRESENTATIVES OF CLAIMANT AND DEPARTMENT.

The hearing may be attended only by persons directly concerned with the issue involved and shall not be open to the public. The claimant may designate persons to offer information in his behalf or to act as his advisory counsel. The hearing officer selected to conduct the hearing, the field supervisor of the district, the county board members, the county director and case-worker concerned, and a stenographer of the county department shall also be present.

RULE 13. CONDUCT OF HEARING.

A. The hearing shall be conducted informally, but directed in such a manner that the following information be brought out during the course of the hearing:

1. Statement of the problem and the points at issue, made by the person conducting the hearing;
2. Opportunity to the claimant, representative of the local office, or others interested in the hearing, for correction or modification of the statement of the problem;
3. Development of the facts relevant to the point or points at issue;
4. Development of any other facts pertinent to the case of the claimant that may arise during the hearing.

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B. The claimant, interested parties, and the representatives of the local office may present such evidence as may be pertinent; the claimant should be given full opportunity to present his case in detail and to ask questions of anyone present at the hearings.

C. Care shall be taken to obtain the most credible evidence available and to insure the accuracy of all copies of papers and extracts from records. The hearing officer need not reject testimony or proofs on certain grounds upon which a court of law would reject them; for example, the fact that they are not the best proof, or that the person responsible for the statement is not present, or that documents have not been authenticated. Only in rare instances should the affidavits of persons not present be used.

D. A complete stenographic record of the proceedings at the hearing shall be made and transcribed. The transcription shall be signed by the stenographer making a record as a true copy of the proceedings. The claimant or his designated representative shall be given the opportunity to review at any reasonable time the transcript of the hearing and any other evidence used in making the decision. Proceedings shall in no event be given any publicity. The hearing may be adjourned from day to day or to a designated day at the discretion of the hearing officer and upon reasonable notice to the claimant and other interested parties. The hearing shall be so adjourned when reasonably necessary to afford full opportunity to the parties to obtain and present all evidence desired.

E. The hearing may be concluded when the hearing officer is satisfied that all pertinent information bearing upon the appeal has



been introduced and examined.

F. An appeal may otherwise be considered as concluded when the claimant withdraws his appeal in writing or fails to attend the hearing without a suitable reason. When the claimant fails to attend the scheduled hearing, thirty (30) days shall elapse before closing the appeal to give him full opportunity to make continuing plans.

RULE 14. REPORT OF HEARING.

- A. The complete transcript of the proceedings of the hearing, together with the recommendations of the hearing officer, shall be submitted to the Board at the first meeting of the Board, following receipt of the transcript from the county department.
- B. The hearing officer's recommendations shall be based exclusively on the evidence and other material introduced at the hearing. The verbatim transcript of testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding, and the hearing officer's recommendations shall constitute the exclusive record for decision by the Board and shall be available to the claimant at a place accessible to him or his representative at any reasonable time.
- C. All material shall be in writing and shall be signed by the hearing officer.

RULE 15. DECISION.

- A. The decision in any fair hearing shall be made by the Board and shall be based on facts included in the transcript of the hearing. The decision of the Board shall be put into effect by the county department concerned, immediately upon receipt of the notification



of decision. The county board shall have the opportunity to reconsider its decision at any time during the interval preceding or during the hearing. This reconsideration, if acceptable to the claimant, may make the holding or continuation of such hearing unnecessary.

B. The decision by the Board shall be made as soon as possible after receiving the report of the hearing and the recommendations of the hearing officer, but in every case shall be made within thirty (30) days from the date of the receipt of the report on the hearing and within sixty (60) days of the receipt by the Department of the request for a fair hearing.

C. The decision so made shall be in writing and include a statement of the basis for appeal, the facts upon which the decision is based, the policy interpretation that led to the decision, and the right of judicial review by a district court of the state, if the claimant considers the decision is unreasonable, arbitrary, or capricious.

D. Decisions by the Board are binding on the state and county departments. The state Department shall establish and maintain a method of informing, at least in summary form, county departments, with the decision. The decision shall also be accessible to the claimant and the public. One copy of the decision shall be transmitted by registered mail to the claimant, one copy to the chairman of the county board, one copy to the county director or caseworker in charge, and one copy to the state field supervisor. When the decision is favorable to the claimant or when the Department decides in favor of the claimant prior to the hearing, the Department shall make the corrected payments retroactively to the date



the incorrect action was taken.

E. The county director or caseworker in charge shall immediately, upon the receipt of the notice of decision, take the necessary steps to carry out the decision and shall notify the state Department that the decision made has been carried out.

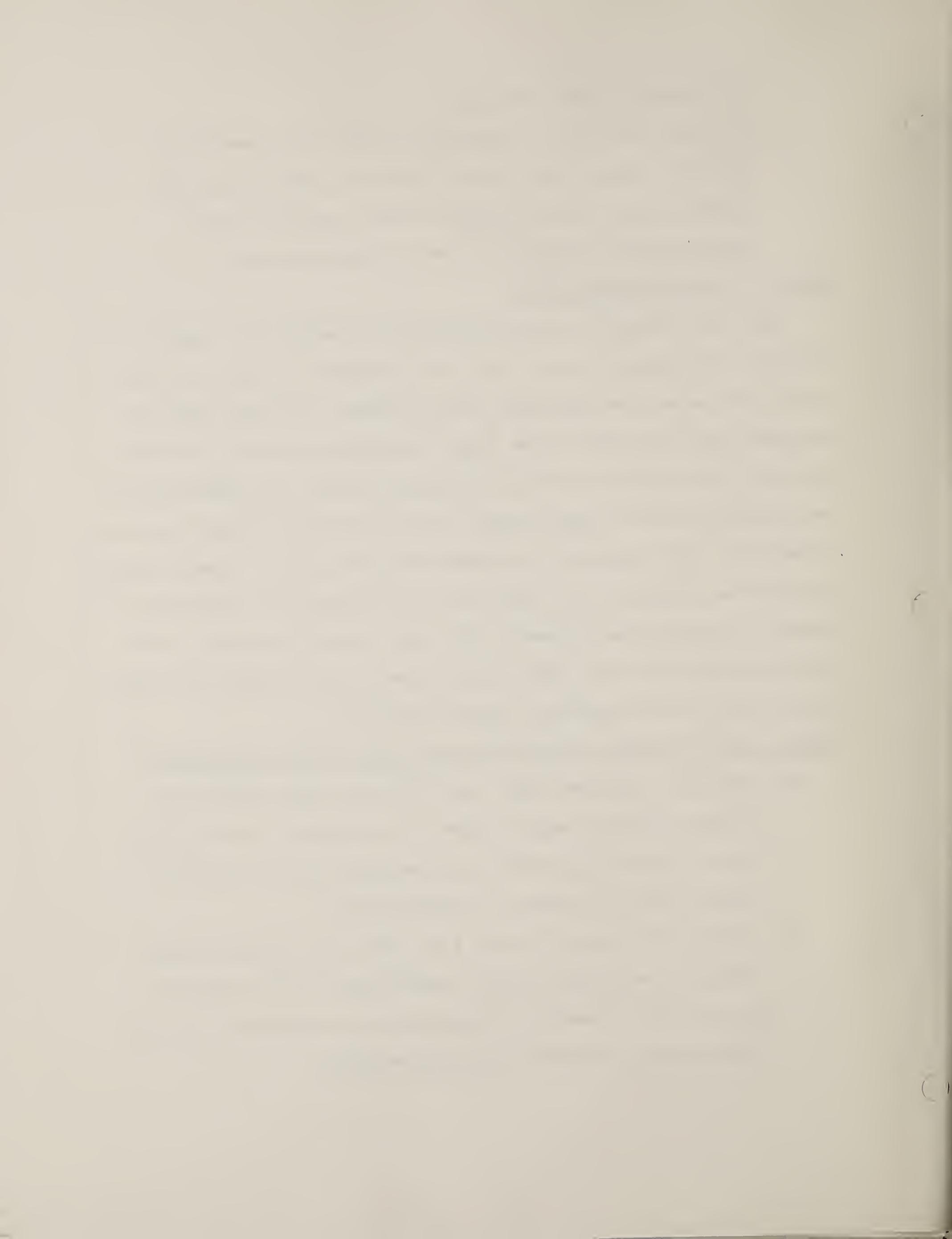
RULE 16. ASSISTANCE DURING APPEAL.

When a fair hearing is requested because of termination or reduction of assistance, involving an issue of fact, or of judgment relating to the individual case, between the Department and the claimant, assistance shall be continued during the period of the appeal and through the end of the month in which the final decision on the fair hearing is reached. (If assistance has been terminated prior to timely request for fair hearing, assistance shall be reinstated.) Where delays are occasioned during the period of appeal, assistance shall be continued if the delay is at the instance of the department or because of illness of the claimant or for other essential reasons. To the extent that there are other delays at the request of the claimant the Department may, but is not required to, continue assistance.

RULE 17. HEARINGS UNDER THE AGING AND VOCATIONAL REHABILITATION PROGRAMS.

A. Any project applicant under Title III of the Older Americans Act of 1965 through the aging program of the Department whose application for approval is denied by the Department has the right to a hearing before the Board or its representative.

B. As provided by section 41-810, R.C.M. 1947, any individual applying for or receiving vocational rehabilitation, who is aggrieved by any action or inaction of the Department, is entitled to a fair hearing before the Board or its representative.



C. Rules 3 through 15 of these Rules shall apply to any hearing requested or conducted pursuant to A or B of this Rule. However, applicants need not be informed in writing of their right to a hearing, of the method by which they may obtain a hearing, or of their right to representation.





